

### **Remarks**

Claims 1-29 and 38-45 have been previously cancelled. Claims 30 and 33 have been amended. New Claims 46 to 61 have been added. Claims 30-37 and 46 to 61 are pending in the application. Examination and consideration of the application, as amended, are requested.

Claim 30 has been amended to make it absolutely clear that the only flame retardant(s) that can be present in the plastic container composition are non-halogenated flame retardant(s). Halogenated flame retardants are expressly excluded. A careful reading of the entire claim makes this clear. This is in accordance with the disclosure in the specification, for example, on page 13, lines 14-21. A clarifying amendment has been made to Claim 33, in accordance with the specification, for example, on page 12, lines 4-7.

New Claims 46-61 find antecedent bases in originally filed or added claims 3, (1 and 2), 1, 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 41, and 44, respectively.

### ***Repeated Rejections***

Applicant incorporates herein all of his remarks relating to the rejections in his responses under Rules 111 and 116.

### **35 U.S.C. 102(b) Rejection**

Claims 30-32 and 37 have been rejected as anticipated by Nagano et al.

Nagano et al. in the disclosure and working examples requires the presence of halogenated epoxy, an acknowledged fire proofing agent. No other epoxy or other thermosetting resin is suggested or disclosed. In contrast, the present invention composition, as defined by the present claims, cannot contain a halogenated fire retardant. Thus, it cannot contain a halogenated epoxy. Clearly, the Nagano et al. composition cannot be the composition of the present invention containers. Comparative Example 1 of Nagano et al. contains no epoxy or other thermosetting agent, making the composition of this Comparative Example not the composition of the present invention (which requires a thermosetting resin as component (b) of the composition).

In contrast to the teachings of Nagano et al., Applicant's invention requires the presence of a thermosetting agent that cannot be a halogenated epoxy. Halogenated epoxy is expressly

excluded by the wording of amended claim 30. Although the composition of the Comparative Example of Nagano et al. contains a nonhalogenated fire proofing agent, it lacks a thermosetting agent, and there can be no anticipation. The composition of the claims of the present invention cannot be anticipated by the working examples or the Comparative Example of Nagano et al. It is submitted that this rejection has been shown to fail and it should be withdrawn.

### 35 U.S.C. 103 Rejections

Applicant has addressed these rejections in his prior responses and incorporates herein his remarks from those responses.

Nagano et al. relates to a plastic pallet that requires the presence of halogenated epoxy as a fire proofing agent in its composition to produce a useful product. The Comparative Example of Nagano et al. shows the failure of the product when halogenated epoxy is not present. This is a teaching away from producing Nagano et al.'s product without halogenated epoxy in the formulation of the composition. Teaching away is the very antithesis of obviousness. Nagano et al. failed to appreciate that a thermoset included in the composition would overcome the deficiency in the product. This is the teaching of the present invention. Nagano et al. fails as a reference directed at producing a useful plastic pallet having fire proof properties without use of halogenated epoxy. Secondary references directed at specific components do not overcome this basic deficiency in the Nagano et al. teachings. None of the secondary references taken as a whole together with Nagano et al. taken as a whole overcome the basic shortcoming of Nagano et al. to teach or suggest the present invention. There can be no obviousness.

In view of the above, it is submitted that all rejections and objections to the claims have been overcome. Examination and reconsideration of the application, as amended, are requested. Allowance of Claims 30-37 and 46-61 at an early date is respectfully solicited.

Respectfully submitted,

November 20, 2003  
Date

Office of Intellectual Property Counsel  
3M Innovative Properties Company  
Facsimile No.: 651-736-3833

By: Lucy C. Weiss  
Lucy C. Weiss, Reg. No.: 32,834  
Telephone No.: (651) 733-1189

for Lorraine R. Sherman,  
Reg. No. 30,105  
7